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In re Patent Application of: Jack Niewiadomski et al.

Title: FUNCTION INJECTOR

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PATENT APPLICATION TRANSMITTAL

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FUNCTION INJECTOR

FIELD OF THE INVENTION

This invention relates generally to testing computer program code, and more
5 particularly to invoking fault conditions during the testing of computer program code.

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BACKGROUND OF THE INVENTION

Computer programs have become increasingly more complex as they provide more
and more features. As the complexity increases, the probability that a computer program will
have a programming error (commonly referred to as a "bug") increases dramatically. To
reduce the probability of distributing a computer program with a programming error,
20 developers of computer program perform extensive testing. Because of the importance of
thorough testing and because such testing can be very time-consuming, computer program
developers have developed extensive testing procedures.

In order to make a computer program application reliable for its intended audience,
whether that be a commercial distribution of thousands of copies as a major software product

offering to the public at large, or internal use distribution, as a tool to a department sized work group of a dozen people or less, the area of software testing has emerged as the primary vehicle for assuring quality software products and for rooting out and resolving as many bugs as possible. In the field of testing, an attempt is made to exercise the software in as many
5 different ways as possible in order to catch as many programming errors as possible before "releasing" the software for general use. Bugs not caught before release are very costly to an enterprise both in terms of rectifying the errors and in the loss of goodwill due to perceptions regarding the quality of the software.

Computer program code is tested using one of a number of conventional methods,
10 including artificially simulating a fault condition by stepping through the executable file in a debugger and manually changing the instruction pointer or memory value, modifying the source code by introducing debug statements or routines into the program and observing the results during program execution, limiting system resources, writing replacement function libraries using user controllable settings, or intercepting functions at run-time and diverting
15 control execution to a replacement function.

Another technique is redirecting a function, as in U.S. Patent 5,812,828, in which a call to a function is replaced with a call to a user-supplied function. However, this technique suffers from the same drawback that all techniques that use a replacement function suffer from: the location, or entry point address, of the original redirected function is not retained,
20 therefore, the original redirected function cannot be accessed. In this case, the original redirected function is merely simulated, the original redirected function is never used or accessed by the user-supplied function. This limits developers and testers in the testing of the function because the original function must often be used to exactly reproduce a fault.

SUMMARY OF THE INVENTION

In general, the invention enables an author of a computer program to easily inject a

fault into an executable file. More specifically, the invention instruments an executable file so that an instrumented function call or method invocation is redirected to a user-supplied function, and the user-supplied function is able to invoke the instrumented function in the original context of stack and registers because the instrumented function address is saved in a table in the executable file. The invention also enables publication, or export, of a function that was not exported during compilation or linking, and enables the user-supplied function(s) to invoke the published function.

More specifically, the function lookup table maps or associates, the address of the original function with the name of the original function, when the executable file is instrumented. The instrumented code is modified such that the address of the instrumented function is saved in a threaded local storage (TLS) variable. Each user-supplied function that invokes the original instrumented function uses the name of the instrumented function to verify that the address in the TLS variable is the same as the address in the function lookup table. Upon verification, the user-supplied function invokes the instrumented function using the verified address. A `LookupFunctionAddress()` function retrieves the address of an instrumented function and a `LookupMethodAddress()` function retrieves the address of an instrumented object-oriented class method.

A master lookup table that maps the base addresses of the instrumented executable files to the address of the function lookup tables is created at runtime of the instrumented executable file by an injector runtime library that looks up the original function address. The injector runtime library that looks up the original function address is separate from the instrumented executable file. Furthermore, the injector runtime library that looks up the original function address executes at the same time as the instrumented executable file and a user-supplied function library.

In addition, the present invention enables logging of events for the purposes of statistical analysis or as data added to a software “bug” report, enables substitution of one

library application program interface (API) for another API for purposes of proof-of-concept or hot-fix, and enables addition of functionality to an executable file without modifying the source code of executable file.

In one aspect of the present invention, a method for creating an instrumented
5 executable file includes redirecting an original function in an executable file to a user-supplied function and retaining access information of the original function. During execution of an executable file, a user-supplied function invokes the original function using the retained access information of the original function. The original function in varying embodiments is embedded in the executable file or is in a dynamic link library (DLL). An embedded function
10 is a function that physically resides in the same file that contains a main() function entry point. The method further enables the user-supplied function to invoke the original function by adding a call in the user-supplied function to a function that retrieves the retained address of the original function, by adding an invocation in the user-supplied-function that invokes the original function from the address of the original function.

15 Dynamic control of the user-supplied function and the original function is accomplished by adding set point management control functions to the user-supplied function that access one or more data files, such as an initialization (INI) file, to retrieve control and command information.

In another aspect of the present invention, a method for instrumenting a function
20 imported into an executable file. The method includes adding a wrapper of the imported function to the import data block, and the method includes adding to the executable file, a stub function for the imported function that saves the original function address to a TLS variable and causes a jump to the user-supplied function. The method also includes adding to a function lookup table, an entry mapping the address of the original imported function to the
25 name of the original imported function.

In yet another aspect of the invention, a method for instrumenting a function that is

embedded in an executable file, includes modifying an embedded function to jump to the user-supplied function and adding an entry in a function lookup table of the original embedded function address.

In still another aspect of the present invention, a method for executing an instrumented executable file that calls an original function that jumps to a user-supplied function, the method includes determining whether the function implements a thiscall calling convention and if so, then injecting code to push the register that holds the 'this' pointer onto the stack from the called function site and swap the return value of a calling function on the stack and the ECX register value on the stack. The original function may be imported or embedded in the executable file.

In still yet another aspect of the invention, a computer system includes a first module of machine-readable code, such as an executable file that includes a instrumented function jump to a replacement (user-supplied) function and a data structure, such as a table associating the identity of the instrumented function with the location of the instrumented function, and includes a second module comprising the replacement (user-supplied) function, operatively coupled to the first module through an invocation of the original function.

In an additional aspect of the invention, a method for publishing a function that was not previously exported includes adding an entry describing the function in a function lookup table in a machine-readable executable file.

In a final aspect of the invention, set points enable a user-supplied wrapper function to be written once, and its functionality can be altered in various ways under the direction of data stored in a separate file, such as initialization file or registry. In being data driven, the user-supplied function does not need to be modified and recompiled in order to simulate a different fault. Furthermore, the present invention performs fault detection, in which the user-supplied function invokes the original instrumented function and afterward attempts to verify successful completion of the original function.

The present invention describes systems, clients, servers, methods, and computer-readable media of varying scope. In addition to the aspects and advantages of the present invention described in this summary, further aspects and advantages of the invention will become apparent by reference to the drawings and by reading the detailed description that follows.

The invention as embodied is a general purpose software product that can be incorporated into a specific test program designed to test a particular API, internal functions that are not intended to be utilized by anyone else but the developer, and all the subroutines therein. By including this embodiment of the invention into the test program, the writing of the test program is simplified and streamlined so as to save time and money with respect to test program development. In addition by not requiring the tester/developer to modify the original source code, potential new bugs/errors will not mistakenly be introduced.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 shows a diagram of the hardware and operating environment in conjunction with which embodiments of the invention may be practiced;

FIG. 2 is a diagram illustrating a system-level overview of an exemplary embodiment of the invention;

FIG. 3 is a flowchart of a method of instrumenting a function in an executable file with a user-supplied function in a manner that preserves access information of the instrumented function, to be performed by a computer according to an exemplary embodiment of the invention;

FIG. 4 is a flowchart of a method of publishing an instrumented function, to be performed by a computer according to an exemplary embodiment of the invention;

FIG. 5 is a block diagram of a system including an executable file, a software

component having a user-supplied function, and an apparatus for instrumenting the executable file using the software component

FIG. 6 is a diagram of a function lookup table data structure for use in an exemplary implementation of the invention.

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DETAILED DESCRIPTION OF THE INVENTION

In the following detailed description of exemplary embodiments of the invention, reference is made to the accompanying drawings which form a part hereof, and in which is shown by way of illustration specific exemplary embodiments in which the invention may be practiced. These embodiments are described in sufficient detail to enable those skilled in the art to practice the invention, and it is to be understood that other embodiments may be utilized and that logical, mechanical, electrical and other changes may be made without departing from the scope of the present invention. The following detailed description is, therefore, not to be taken in a limiting sense, and the scope of the present invention is defined only by the appended claims.

The detailed description is divided into five sections. In the first section, the hardware and the operating environment in conjunction with which embodiments of the invention may be practiced are described. In the second section, a system level overview of the invention is presented. In the third section, methods for an exemplary embodiment of the invention are provided. In the fourth section, a particular implementation of the invention is described. Finally, in the fifth section, a conclusion of the detailed description is provided.

Hardware and Operating Environment

FIG. 1 is a diagram of the hardware and operating environment in conjunction with which embodiments of the invention may be practiced. The description of FIG. 1 is intended

to provide a brief, general description of suitable computer hardware and a suitable computing environment in conjunction with which the invention may be implemented. Although not required, the invention is described in the general context of computer-executable instructions, such as program modules, being executed by a computer, such as a personal computer.

- 5 Generally, program modules include routines, programs, objects, components, data structures, etc., that perform particular tasks or implement particular abstract data types.

Moreover, those skilled in the art will appreciate that the invention may be practiced with other computer system configurations, including hand-held devices, multiprocessor systems, microprocessor-based or programmable consumer electronics, network PCs,
10 minicomputers, mainframe computers, and the like. The invention may also be practiced in distributed computing environments where tasks are performed by remote processing devices that are linked through a communications network. In a distributed computing environment, program modules may be located in both local and remote memory storage devices.

The exemplary hardware and operating environment of FIG. 1 for implementing the
15 invention includes a general purpose computing device in the form of a computer 20, including a processing unit 21, a system memory 22, and a system bus 23 that operatively couples various system components, including the system memory to the processing unit 21. There may be only one or there may be more than one processing unit 21, such that the processor of computer 20 comprises a single central-processing unit (CPU), or a plurality of
20 processing units, commonly referred to as a parallel processing environment. The computer 20 may be a conventional computer, a distributed computer, or any other type of computer; the invention is not so limited.

The system bus 23 may be any of several types of bus structures including a memory bus or memory controller, a peripheral bus, and a local bus using any of a variety of bus
25 architectures. The system memory may also be referred to as simply the memory, and includes read only memory (ROM) 24 and random access memory (RAM) 25. A basic

input/output system (BIOS) 26, containing the basic routines that help to transfer information between elements within the computer 20, such as during start-up, is stored in ROM 24. The computer 20 further includes a hard disk drive 27 for reading from and writing to a hard disk, not shown, a magnetic disk drive 28 for reading from or writing to a removable magnetic disk 29, and an optical disk drive 30 for reading from or writing to a removable optical disk 31 such as a CD ROM or other optical media.

The hard disk drive 27, magnetic disk drive 28, and optical disk drive 30 are connected to the system bus 23 by a hard disk drive interface 32, a magnetic disk drive interface 33, and an optical disk drive interface 34, respectively. The drives and their associated computer-readable media provide nonvolatile storage of computer-readable instructions, data structures, program modules and other data for the computer 20. It should be appreciated by those skilled in the art that any type of computer-readable media which can store data that is accessible by a computer, such as magnetic cassettes, flash memory cards, digital video disks, Bernoulli cartridges, random access memories (RAMs), read only memories (ROMs), and the like, may be used in the exemplary operating environment.

A number of program modules may be stored on the hard disk, magnetic disk 29, optical disk 31, ROM 24, or RAM 25, including an operating system 35, one or more application programs 36, other program modules 37, and program data 38. A user may enter commands and information into the personal computer 20 through input devices such as a keyboard 40 and pointing device 42. Other input devices (not shown) may include a microphone, joystick, game pad, satellite dish, scanner, or the like. These and other input devices are often connected to the processing unit 21 through a serial port interface 46 that is coupled to the system bus, but may be connected by other interfaces, such as a parallel port, game port, or a universal serial bus (USB). A monitor 47 or other type of display device is also connected to the system bus 23 via an interface, such as a video adapter 48. In addition to the monitor, computers typically include other peripheral output devices (not shown), such as speakers and printers.

The computer 20 may operate in a networked environment using logical connections to one or more remote computers, such as remote computer 49. These logical connections are achieved by a communication device coupled to or a part of the computer 20; the invention is not limited to a particular type of communications device. The remote computer 49 may be another computer, a server, a router, a network PC, a client, a peer device or other common network node, and typically includes many or all of the elements described above relative to the computer 20, although only a memory storage device 50 has been illustrated in FIG. 1. The logical connections depicted in FIG. 1 include a local-area network (LAN) 51 and a wide-area network (WAN) 52. Such networking environments are commonplace in offices, enterprise-wide computer networks, intranets and the Internet.

When used in a LAN-networking environment, the computer 20 is connected to the local network 51 through a network interface or adapter 53, which is one type of communications device. When used in a WAN-networking environment, the computer 20 typically includes a modem 54, a type of communications device, or any other type of communications device for establishing communications over the wide area network 52, such as the Internet. The modem 54, which may be internal or external, is connected to the system bus 23 via the serial port interface 46. In a networked environment, program modules depicted relative to the personal computer 20, or portions thereof, may be stored in the remote memory storage device. It is appreciated that the network connections shown are exemplary and other means of and communications devices for establishing a communications link between the computers may be used.

The hardware and operating environment in conjunction with which embodiments of the invention may be practiced has been described. The computer in conjunction with which embodiments of the invention may be practiced may be a conventional computer, a distributed computer, or any other type of computer; the invention is not so limited. Such a computer typically includes one or more processing units as its processor, and a computer-readable medium such as a memory. The computer may also include a communications device such as

a network adapter or a modem, so that it is able to communicatively couple to other computers.

System Level Overview

5 A system level overview of the operation of an exemplary embodiment of the invention is described by reference to FIG. 2.

 System 200 includes an instrumented executable file 210 that is modified from an original module (not shown) to replace, substitute or instrument access 220 to an original function 230, with an access 240 to a user-supplied function 250. The user-supplied function
10 250 optionally includes an access mechanism 260 to the original function 230. The user-supplied function 250 is alternatively described as a “wrapper” when the user-supplied function 250 optionally “wraps” or includes access to the original function 230.

 More specifically, the original function 230 and the user-supplied function 250 in varying embodiments are functions or object methods.

15 In one embodiment, instrumented executable file 210 is instrumented in a manner such that an original function 230 that is contained or embedded within the instrumented executable file 210 (not shown) includes an invocation or redirection 260 to a user-supplied function 250.

 System 200 enables instrumenting an original function 230 in an executable file using
20 a user-supplied function 250, in a manner that enables the user-supplied function 250 to invoke the original function 230, regardless of whether the original function 230 is imported from a dynamic link library is implemented in the executable file 210.

 System 200 also includes a mechanism to retain information required to access the original function. In one embodiment, the mechanism is a table 270 in the instrumented
25 executable file 210 that maps or associates the name of the original function 230 with the

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address of the original function 230. The mechanism enables the user-supplied function 250 to locate the original function 230. The table 270 is described in detail in conjunction with FIG. 6.

Optionally, system 200 includes an injector runtime library 280. At initialization of the run time library, a master lookup table 290 is created, that relates the base address of the instrumented executable file 210 to the address of the lookup table of the instrumented executable file. The master lookup table 290 assists in locating the address of the lookup table of instrumented executable program.

The system level overview of the operation of an exemplary embodiment of the invention has been described in this section of the detailed description. The system level overview describes a system for enabling an instrumented executable file to retain access information, such as the entry point address, of an instrumented executable file so that a user-supplied function can access the original function. The invention is not limited to any particular implementation of instrumented executable file or component.

Methods of an Exemplary Embodiment of the Invention

In the previous section, a system level overview of the operation of an exemplary embodiment of the invention was described. In this section, the particular methods performed by the server and the clients of such an exemplary embodiment are described by reference to a series of flowcharts. The methods to be performed by the clients constitute computer programs made up of computer-executable instructions. Describing the methods by reference to a flowchart enables one skilled in the art to develop such programs including such instructions to carry out the methods on suitable computerized clients (the processor of the clients executing the instructions from computer-readable media). Similarly, the methods to be performed by the server constitute computer programs also made up of computer-executable instructions. Describing the methods by reference to flowcharts enables one

skilled in the art to develop programs including instructions to carry out the methods on a suitable computerized server (the processor of the clients executing the instructions from computer-readable media).

FIG. 3 is a flowchart of a method of instrumenting a function in an executable file
5 with a user-supplied function in a manner that preserves access information of the instrumented function, to be performed by a computer, according to an exemplary embodiment of the invention.

Method 300 begins by opening a binary image of an executable file to be instrumented
305. A list (not shown) of the function(s) in the executable file that are to be instrumented, known as a “wrap function list” is also specified. Thereafter, each of the functions identified
10 in the wrap function list are instrumented.

To instrument each of the functions identified in the wrap function list, the next entry in the wrap function list is retrieved 310. Thereafter, the list of procedures/functions is enumerated and a determination of whether or not the function exists is made (not shown). If
15 the function does not exist, then the method continues at action 310, where the next item from the wrap function list is retrieved.

Continuing, a determination is made as to whether the retrieved function is imported or not 315.

In one embodiment, the determination is based on the .IDATA (import data) table
20 present in an executable file of the portable executable (PE) file format. If the function name is found in the .IDATA table, it is imported from the specified module. If the function name is not found in the import table, the function exists within the executable file. The tool DUMPBIN in Microsoft VisualStudio can be used to display the list of imported functions.

If the determination indicates the function is not imported, the function is instrumented
25 pursuant and according to the requirements of an embedded, internal, local, or defined, function. Otherwise, the function is instrumented pursuant and according to the requirements

of an imported function. In one embodiment, an imported function is a function that is located, or resides outside of the executable file being instrumented, such as a dynamic link library (DLL).

Instrumenting an embedded function begins with determining if the function is overloaded 320. An overloaded function is well-known to those skilled in the art as having the same name as of at least one other function within the same scope or domain, but with a different set of arguments or parameters. If the function is overloaded, a determination is made as to whether the function prototype of the function retrieved in action 310 is correctly specified 325. If the function prototype is not correctly specified, then the error is logged or recorded 330 and the instrumenting of the function that was retrieved from the function wrapper in action 310 is aborted by returning control flow to action 310 in order to instrument the next function in the function wrapper list. If the function is not overloaded, or if the function is overloaded and the prototype of the function is correctly specified, then instrumenting of the embedded function continues by redirecting the original embedded function in the executable file to the user-supplied function 335. More specifically, the redirection 335 is performed by modifying the original function, such that the address of the original function is saved into the threaded local storage (TLS) variable. Subsequently, an instruction “JMP Wrapper_address” is added to the body of the original function. “Wrapper_address” is the user-supplied function to be re-directed to. More specifically the instruction is an assembly “JMP” instruction.

Furthermore, the instrumented executable file does not need to be re-instrumented in order to change the behavior of the original function or the user-supplied function. Rather, in one embodiment, the behavior of the user-supplied function is altered using user-specified set points. The set points are stored in any data storage embodiment that is well-known to those skilled in the art, such as a registry file, an external file, the current system resource, and an initialization (INI) file. By being data driven, the user-specified wrapper function does not need to be modified and recompiled in order to simulate a different fault.

The method 300 also includes adding an entry in a function lookup table of the original module 340, which enables the user-supplied function to call the original function at run-time. The function lookup table is as in table 270 in FIG. 2.

Where an original function is a class method that uses the `__thiscall` calling convention, then the user-supplied function is prototyped or defined with an additional parameter, the “this” pointer which points to the object class, and method uses the `__stdcall` calling convention.

In one embodiment, if the original function is determined to be a C++ `thiscall` function 355, then code is generated and inserted in the original function that pushes the ECX register value onto the stack and swaps the return address of the calling function on the stack and the ECX register value on the stack. This code is necessary to provide a correct stack before the jump to the user-supplied function. More specifically, the swap is performed because at the time the ECX registry value is pushed on to the stack in the original function, the return address of the calling function is already on the stack. Therefore, the return address and the ECX register value are swapped so that the “this” pointer stored in ECX has the correct position on the stack.

In an alternative embodiment, if the original function is determined to use the `thiscall` calling convention, then action 360, pushing the register that holds the ‘this’ pointer onto the stack from the called function site and swapping the return value of the calling function on the stack and the ECX register value on the stack is performed.

The use of the ECX register is to support the “this” pointer in C++ implementations. Conventionally, all non-static class methods require a “this” pointer. The “this” pointer points to the start of the specific instance of the instantiated object (i.e. class, data structure). The compiler places the “this” pointer in the ECX register instead of pushing it on the stack as an optimization. There is a high probability that one method will call another method within the same class.

Instrumenting an imported user-supplied function begins with determining whether the function prototype of the user-supplied function retrieved in action 310 is correctly specified 365. In one embodiment, where the imported function was written in C++, then the function prototype is made available through the portable executable (PE) file format. In another 5 embodiment where the imported function is written in a language other than C++, only the base function name is available. In yet another embodiment, the module DLL that hosts the imported function is searched for its prototype directly from the source.

If the function prototype is not correctly specified, then the error is logged or recorded 370, similar to action 330, and the instrumenting of the user-supplied function that was 10 retrieved in action 310 ends by returning control flow to action 310 in order to instrument the next user-supplied function in the list.

If the prototype of the user-supplied function is correctly specified, then instrumenting of the imported function continues by adding the imported user-supplied function, or wrapper, to the import data block of the executable file 375. In one embodiment, an entry indicating 15 the imported user-supplied function is added to the idata definitions in the executable file. The idata definitions identify imported functions.

Continuing the instrumenting of an imported function, method 300 redirects all calls of the original imported function in the executable file to the user-supplied function 380. More specifically, redirecting an imported function includes adding a wrapper of the imported 20 function to the import data block (.IDATA) in the instrumented executable file, adding a stub function for the imported function to the instrumented executable file, and redirect calls of the original function to the stub function. The stub function includes an instruction that saves the original function address to a threaded local storage variable and an instruction that causes a jump, such as an assembly “JMP” instruction, to the user-supplied function.

25 The method also includes adding an entry in a function lookup table for the original imported function 385, which enables the user-supplied function to call the original function. The function lookup table is as in table 270 in FIG. 2.

If the original function is determined to be a C++ thiscall function 355, then code is generated and inserted in the stub function that pushes the ECX register value onto the stack and swaps the return address of the calling function on the stack and the ECX register value on the stack. This code is necessary to provide a correct stack before the jump to the user-supplied function. More specifically, the swap is performed because at the time the ECX registry value is pushed on to the stack in the original function, the return address of the calling function is already on the stack. Therefore, the return address and the ECX register value are swapped so that the “this” pointer stored in ECX has the correct position on the stack.

Actions 375, 380, and 385 are performed in varying order in varying embodiments.

Thereafter, if at least one additional entry remains in the wrap function list 390, the method 300 continues with action 310. Otherwise, the method 300 ends.

As a result, the instrumented executable file does not need to be re-instrumented in order to change the behavior of the original function. Rather, the behavior of the user-supplied function is altered using user-specified set points, as described below in conjunction with FIG. 5, via an external file, the registry, the current system resource, and other data sources well-known to those skilled in the art.

Optionally, method 300 also includes generating and adding code to a wrapper function that invokes a setpoint manager. However, the wrapper function author does not need to invoke a setpoint manager in order to implement the wrapper function. Using a set point manager, however, will allow the wrapper function author to leverage this data-driven model and not need to focus on managing set points.

Optionally, method 300 also includes generating and adding a call instruction to the instrumented executable file. At run-time, when the instrumented executable file is first executed, the call instruction will call a function to save in a master lookup table, such as master 290 in FIG. 2, the pointer or address of the instrumented executable file, as in table

270 in FIG. 2, in association with the name of the instrumented executable file. The function receives the pointer to the function lookup table of the instrumented executable file, as in table 270 in FIG. 2, and the base address pointer of the executable file. At run-time, the master lookup table, as in table 290 in FIG. 2, is accessed using the TLS value as the comparison
5 criteria to retrieve the base address of the original instrumented executable file. Thereafter, the base address of the instrumented executable file is used to locate the function lookup table within the instrumented executable file, then the function lookup table, as in table 270 in FIG. 2, is accessed to retrieve the address of the original function.

Optionally, method 300 also adds machine instructions to the executable file to call the
10 SaveWrappedFunctionAddress() function to save the address of the original instrumented function in a global master lookup table, such as master 290 in FIG. 2. The LookupFunctionAddress() and LookupMethodAddress() functions verify that the address found in the function lookup table, as in table 270 in FIG. 2, matches this value.

At run-time, when the instrumented executable file is executed, a master lookup table
15 is used to assist in locating the address of the original function. The method to find the original function address of a wrapped function is as follows: from the TLS variable, the run-time module can determine from the master lookup table, the base address of the module where the wrapped function resides. Then, the run-time module can locate the address of the function lookup table, as in table 2 in FIG. 2, from the master lookup table. From the function
20 lookup table, the run-time module can match the function name with its original address.

FIG. 4 is a flowchart of a method of publishing an instrumented function, to be performed by a computer according to an exemplary embodiment of the invention. Method 400 is optionally performed subsequent to method 300. The method enables a first function to be called from a second function after compilation and linking where the first function has not
25 been exported by a linker or compiler.

Method 400 begins by retrieving an item from a list of functions that are to be

published 410 that was not previously exported by the linker or compiler. Each item in the list uniquely identifies, by name and prototype, a function to be published. Thereafter, a determination of whether the function name exists 420 and a determination of whether the function prototype is correctly specified 430 is performed in order to verify that the function to be published exists. If the determinations succeed, then the function is published by adding the entry for the function in the function lookup table 440, as in action 340 and action 385 in FIG. 3. If the determinations fail, then the error is logged, 450 and 460, respectively. Continuing, the method 400 determines whether or not another item is available in the list 470. If another function is available, the method 400 continues by retrieving the function from the list in action 410. Otherwise, all of the functions that the list specifies for publishing are processed, and the method 400 ends.

Implementation

In this section of the detailed description, a particular implementation of the invention is described. The Implementation section is divided into 5 sections; instrumenting, overloaded functions and methods, set point management and run-time, fault simulation, and fault detection.

Instrumenting

FIG. 5 is a block diagram of a system 500 including an executable file, a software component having a user-supplied function, and an apparatus for instrumenting the executable file using the software component. System 500 includes an executable file 510, which has a machine-readable instruction that is a call to an original function that will be instrumented or a definition of an original function that will be instrumented. The source code of an example that is compiled and linked in the executable file 510 follows in table 1:

```
void main (int argc, char * argv[])
{
    A(6);
    B(7);
};
void A(int z)
{
    return;
};
```

Table 1

The source code in table 1 includes a function name “main ()” which is the entry point of execution, and includes calls to functions A() and B(). The functions in the program that are instrumented are the original functions before instrumenting, and have a unique identity, which includes a name, such as “A” and a parameter, such as “int z”.

Executable file 510 is operatively coupled to a dynamic link library (DLL) 520 through compiling and linking operations performed on the executable file 510 and the DLL 520. The DLL 520 is comprised of one of more functions, such as the following in Table 2:

```
void B(int x)
{
    return;
};
```

Table 2

The system 500 also includes apparatus 530, which is a program that performs methods of instrumenting and publishing function(s) according to the present invention, as in method 300 and method 400, respectively. The apparatus 530 receives from a source of instrument commands 540, the identity, such as “void A(int z)”, or “void B(int x)” of the original function in the executable file that is to be instrumented, and the identity, such as

“void A_W(int z)”, of a user-supplied function (not shown), as in action 310 in FIG. 3. In one embodiment, the source of instrument commands 540 is a data file, where the data file is created by a program that solicits instrumentation commands from users.

Furthermore, apparatus 530 instruments a function in the executable file.

- 5 Instrumenting uses the identity of a user-supplied function and the identity of an original function received from the source of instrument commands 540.

For example, to instrument embedded function A() in Table 1 with user-supplied function A_W(), A() in Main() is modified by adding a save of the address of A() in a TLS variable, adding an invocation of A_W() and as follows in Table 3:

10
15
20

```
void main (int argc, char * argv[])
{
    A(6);
    B(7);
};
void A(int z)
{
    TLS_var=&A;
    jmp A_W;
    return;
};
```

Table 3

- 25 Instrumenting an embedded function is also described in conjunction with actions 330 through 360 in FIG. 3.

In another example, to instrument calls in Table 1 to imported function B() with user-supplied function B_W(), the call to B() in Main() is replaced with a call a stub for B_W() as follows in Table 4:

30

```
void main (int argc, char * argv[])
```

```
{  
    A(6);  
    stub_B(7);  
};  
void A(int z)  
{  
    return;  
};  
stub_B(int Y)  
{  
    TLS_var=&B;  
    jmp B_W();  
}
```

Table 4

Instrumenting an imported function is also described in conjunction with actions 365 and 385 in FIG 3.

Apparatus 530 also stores the address of the original instrumented function in the executable file in association with the name of the original instrumented function, which enables the user-supplied function to call the original instrumented. Storing the address of the original instrumented function in the executable file is also described in conjunction with actions 340 and 385 in FIG 3.

FIG. 6 is a diagram of a function lookup table 600 data structure for use in an exemplary implementation of the invention. The function lookup table is as in table 270 in FIG. 2.

In order to provide access of an original function to the user-supplied function, the user supplied function accesses the function lookup table 600. The user-supplied function will send the name of the original function and receive in return the address of the original function. Thereafter, the user-supplied function will use the address of the original function to

invoke the original function.

The function lookup table data structure 600 includes at least one entry, represented in FIG. 600 by the rows, in which the address of the original instrumented function is associated with the address of the original instrumented function. For example, the name of the original function is stored in the first column and the address is stored in the second column of the function lookup table 600.

Function lookup table 600 retains access information of the original function to enable the user-specified function to access the original function. In one embodiment, function lookup table 600 is stored in the instructed executable file. In another embodiment, functions LookupFunctionAddress() and LookupMethodAddress() enable the user-supplied function to locate the original function address without knowing the location of the original function. Functions LookupFunctionAddress() and LookupMethodAddress() are supported or hosted by an injector runtime library, such as module 280 in FIG. 2, that executes during the execution of the instrumented executable file.

More specifically, where a user-supplied function B_W() that resides in a DLL replaces, or instruments, original function B() in the executable file, as in Table 4, the function B_W() will be modified as follows in Table 5 in order to accomplish a call to the original function that B_W() replaces:

```
void (* b)(int);  
{  
    void (* b)(int);  
    b=LookupFunctionAddress("B")  
    b(z);  
};
```

Table 5

Overloaded Functions and Methods

Determining if the function is overloaded, as in action 320 in FIG. 3, in one embodiment is a simple name match. For example, in an executable file in which the source code was written in C++, a function name can be viewed as mangled or unmangled.

- 5 Mangling is well-known to those skilled in the art as generating a unique name for each function that is used for compiling and linking purposes. If more than one function has the same name, it is considered to be overloaded. In order for the compiler to be able to unambiguously identify which is the appropriate function, the function arguments must differ in at least one way. For example, where four overloaded SetReturnValue methods exist as
- 10 defined below:

```
void SetReturnValue(char const chReturnValue);  
void SetReturnValue(int const nReturnValue);  
void SetReturnValue(unsigned int const uReturnValue);  
void SetReturnValue(void * const pReturnValue);
```

15 The unmangled names of all of the above functions are SetReturnValue. Each function differs only in the parameter list. The mangled name counterparts of these methods will consist of the base name, plus an encoding technique that specifies the number and types of method arguments. For example:

```
?SetReturnValue@CSetPointTrace@@@QAEXD@Z  
?SetReturnValue@CSetPointTrace@@@QAEXH@Z  
?SetReturnValue@CSetPointTrace@@@QAEXI@Z  
?SetReturnValue@CSetPointTrace@@@QAEXQAX@Z
```

When instrumenting, the system will search for all functions containing the same base function name. If more than one has been found, it is known to be overloaded.

For an overloaded function, an attempt to find the match function in the executable file
5 using the function name with its list of parameter types, will be performed. For a non-
overloaded function, an attempt to find the match function in the binary using only the
function name as the search key, will be performed.

Set Point Management and Run-time

10 Set point management enables fault simulation and dynamic control of the user-
supplied function and the original function. Set point management is accomplished by adding
set point management control functions to the user-supplied function. The control function
accesses one or more data files, such as an initialization (INI) file, to retrieve control and
command information. Enhancing a user-supplied function to include set point management
15 is accomplished by invoking a set point management interface to determine if a set point
management component indicates that a specified threshold has been reached. For example, a
user-supplied function C_W() incorporates set point management as shown below in Table 6

```
20 int C_W(int z)
    {
        if (spm.triggered())
        {
            return error;
25     }
        CLookup("C");
        return C(z);
    };

```

Table 6

The user-supplied function C_W in Table 6 invokes a set point management function component “spm” and sends the message “triggered” in order to determine if the set point management component has reached a threshold value. If so, then an error is returned, otherwise, the address of the original function C() that C_W() replaced is invoked and the execution of C_W() ends.

The run-time module that hosts functions LookupFunctionAddress() and LookupMethodAddress() also manages a master lookup table, as in master 290 in FIG. 2.

More specifically, the master lookup table maps the base addresses of the instrumented function lookup tables, as in table 270 in FIG. 2, to the names of the instrumented executable file. The master lookup table is created at runtime by the injector runtime library hosting the lookup function and method functions. In other words, a table that maps the base address of each instrumented executable file to the address of the function lookup table, as in table 270 in FIG. 2, of the associated instrumented executable file is created at runtime by the injector runtime library, as in injector runtime library 280, hosting the lookup function and method functions. The master lookup table is a global array that resides in the run-time DLL. Each entry of this master lookup table contains the base address of the instrumented binary and the address of the function lookup table that contains the original function address prior to being wrapped or instrumented.

Fault Simulation

Fault simulation is accomplished in the set point management component by determining if a threshold has been reached. The threshold is determined by specifications stored in an external data source, such as an initialization (.INI) file. Examples of thresholds are trigger every n th call, trigger over n calls, trigger every n bytes communicated, and trigger

MS docket 133015.1 SLWK docket 777.364.us1

over n bytes communicates, sleep (i.e. pause) action, break into debugger, and trigger alert.

Other specifications that the fault simulation data source contain a setting section of specification that is acted upon once at the beginning of execution, and includes a refresh interval and a random seed, (i.e. psuedo-random reproduction) specification, a global section

- 5 of specifications that are applicable to all instrumented functions, a group section of specifications that identifies groups of instrumented functions and a local section of specifications that set specifications for individual instrument functions.

Fault Detection

- 10 Fault detection is implemented through a set point management function ControlDetectFault(). A user-supplied function checks the return value of a call to the original function and verifies that it has succeeded. If it has not succeeded, the user-supplied function calls the FaultDetected() method, which, when activated, writes an entry into the current log stream and execute any predefined actions via action setpoints.

15

Conclusion

- 20 A method and system for instrumenting an original function in an executable file using a user-supplied function, in a manner that enables the user-supplied function to call the original function, regardless of whether the original function is imported from a dynamic link library or is contained within, embedded within, internal to, local in, or defined in the executable file has been described. Although specific embodiments have been illustrated and described herein, it will be appreciated by those of ordinary skill in the art that any arrangement which is calculated to achieve the same purpose may be substituted for the specific embodiments shown. This application is intended to cover any adaptations or
- 25 variations of the present invention.

The terminology used in this application with respect to functions and methods is meant to include all of these environments. The term function is used to describe both functions in procedural design components, and methods in object-oriented design components. Therefore, it is manifestly intended that this invention be limited only by the

5 following claims and equivalents thereof.

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We claim:

1. A computerized method for creating an instrumented executable file, the method comprising:

5 redirecting an original function in an executable file to a user-supplied function; and retaining access information of the original function.

2. The computerized method for creating an instrumented executable file as in claim 1, wherein the user-supplied function is modified to invoke the original function using the retained access information of the original function.

10 3. The computerized method for creating an instrumented executable file as in claim 1, wherein the user-supplied function is in a dynamic linked library.

15 4. The computerized method for creating an instrumented executable file as in claim 1, wherein the user-supplied function is not exported during compilation.

5. The computerized method for creating an instrumented executable file as in claim 1, wherein the original function and the user-supplied function have identical prototypes.

20 6. The computerized method for creating an instrumented executable file as in claim 1, where the user-supplied function is stored in a module that is separate from the executable file.

7. The computerized method for creating an instrumented executable file as in claim 1, wherein the redirecting further comprises modifying the executable file.

8. The computerized method for creating an instrumented executable file as in claim 7, wherein modifying the executable file further comprises determining whether the original function implements the thiscall calling convention, and when the determination is positive, adding instructions to the executable file to perform:

pushing the register that holds the 'this' pointer onto the stack from the invoked original function site when the determining indicates that the function implements a thiscall calling convention; and

swapping the return value of the invoking original function on the stack and the register that holds the 'this' pointer value on the stack when the determining indicates that the function implements a thiscall calling convention.

9. The computerized method for creating an instrumented executable file as in claim 7, wherein modifying the executable file further comprises enabling the user-supplied function to invoke the function in the executable file.

10. The computerized method for creating an instrumented executable file as in claim 9, wherein enabling the user-supplied function to invoke the original function in the executable file further comprises:

adding a jump in the user-supplied function to a function that retrieves the address of the original function; and

adding a jump in the user-supplied-function that invokes the original function using the address of the original function.

11. The computerized method for creating an instrumented executable file as in claim 1, further comprising enabling the user-supplied function to alter behavior.

5 12. The computerized method for creating an instrumented executable file as in claim 11, wherein enabling the user-supplied function to alter behavior is performed in response to data.

13. The computerized method for creating an instrumented executable file as in claim 12, wherein the data is retrieved from an initialization file.

10

14. The computerized method for creating an instrumented executable file as in claim 1, wherein the retaining further comprises:

saving the address of an original function in a threaded local storage variable; and

15

creating an entry in a function lookup table associating the address of the original function with the name of the original function, wherein the function lookup table is in the instrumented executable file.

15. A computerized method for executing an instrumented executable file, the
20 instrumented executable file having an original function redirected to a user-supplied function, and the user-supplied function having a jump to the original function, the method comprising:

saving the address of the original function in a threaded local storage variable; and

invoking the user-supplied function.

16. The computerized method for executing an instrumented executable file as in claim
15, further comprising creating a master lookup table at initialization wherein the master
5 lookup table associates the base address of the instrumented executable file to the address of a
function lookup table in the instrumented executable file.

17. The computerized method for executing an instrumented executable file as in claim
15:

10 wherein original function is in a dynamic link library; and
wherein the saving and the invoking is performed by a stub function of the original
function, the stub function being located in the instrumented executable file.

18. The computerized method for executing an instrumented executable file as in claim
15: 15
wherein original function is embedded in the instrumented executable file; and
wherein the saving and the invoking is performed by the original function.

19. The computerized method for executing an instrumented executable file as in claim
20 15, further comprising invoking the original function from within the user-supplied function
using the threaded local storage variable.

20. The computerized method for executing an instrumented executable file as in claim

19, wherein invoking the original function further comprises:

- pushing the register that holds the 'this' pointer onto the stack from the invoked original function site when the determining indicates that the function implements a thiscall calling convention; and
- 5 swapping the return value of the invoking original function on the stack and the register that holds the 'this' pointer value on the stack when the determining indicates that the function implements a thiscall calling convention.

21. A computerized method for instrumenting an imported function in an executable file for testing by callers of the imported function, the method comprising:

- adding a wrapper of the imported function to an import data block;
- adding a stub function for the imported function wherein the stub function comprises and instruction that saves the original function address to a threaded local storage variable and an instruction that causes a jump to the user-supplied
- 15 function; and
- adding an entry in a function lookup table of the original imported function.

22. The computerized method for instrumenting an imported function in an executable file as in claim 22, the method further comprising:

- 20 determining if the prototype of the imported function is correctly specified; and
- indicating an error when the determining indicates an incorrectly specified prototype of the imported function.

23. A computerized method for instrumenting an embedded function in an executable file for testing by callers of the embedded function, the method comprising:

- 25 for testing by callers of the embedded function, the method comprising:

redirecting an embedded function to the wrapper; and
adding an entry in a function lookup table of the address of the embedded function.

24. A computerized method for instrumenting an embedded function in an executable file
5 as in claim 23, wherein the redirecting is accomplished by an instruction that causes a jump to
the user-supplied function.

25. A computerized method for instrumenting an embedded function in an executable file
as in claim 23, the method further comprising:

10 determining whether the prototype of the embedded function is correctly specified;
and
indicating an error when the determining whether the prototype of the embedded
function is correctly specified indicates an incorrectly specified prototype of
the embedded function.

15 26. A computerized method for instrumenting an embedded function in an executable file
as in claim 23, wherein the function lookup table is in the executable file.

27. A computerized method for publishing a function, the method comprising adding an
20 entry describing the function in a function lookup table in a machine-readable executable file.

28. A computerized system comprising:
means for redirecting an original function in an executable file to a user-
supplied function; and

means for retaining access information of the original function.

29. A computerized system comprising:

an executable file having a call to an original function, the original function
having an identity comprising a name and a parameter prototype; and
means for a user-supplied function that includes a call to the original function
to retrieve stored access information of the original function.

30. A computerized system comprising:

an executable file having a jump to an original function, the original function
having an identity comprising a name and a parameter prototype;
a first software component having a user-supplied function that includes a
jump to the original function; and
a second software component for:
receiving the identity of the original function;
receiving the identity of the user-supplied function;
instrumenting the function in the executable file using the identity of
the user-supplied function; and
storing the original function address in the executable file in association
with the name of the original instrumented function.

31. A computerized system comprising:

a first module of machine-readable code comprising:
a first instrumented function call to a first replacement function; and

a first data structure associating the identity of the first instrumented
function with the location of the first instrumented function; and
a second module comprising the first replacement function, operatively
coupled to the first module through a jump to the first original function.

5

32. The computerized system as in claim 31,

wherein the first data structure comprises a function lookup table readily
available for verifying that the threaded local storage variable contains
the correct original instrumented function address; and

10

wherein the second module comprises a dynamic linked library.

33. The computerized system as in claim 31, further comprising a second data structure
associating the location of the first data structure with the location of the first module.

15

34. The computerized system as in claim 31, further comprising:

a third module of machine-readable code comprising:

a second instrumented function call to a second replacement function;
and

a second data structure associating the identity of the second
instrumented function with the location of the second
instrumented function; and

20

a fourth module comprising the second replacement function, having a jump to
the second original function.

25

35. The computerized system as in claim 31, further comprising:

a third module of machine-readable code comprising:

a second instrumented function jump to a second replacement function;

and

a second data structure associating the identity of the second

5 instrumented function with the location of the second instrumented function; and

wherein the second module further comprises the second replacement function, having a jump to the second original function.

10 36. A computer-readable medium having computer-executable instructions to cause a computer to perform a method comprising:

redirecting an original function in an executable file to a user-supplied function; and

retaining access information of the original function.

15 37. A computer-readable medium having stored thereon a first data structure comprising a first module having a second data structure associating the identity of a first instrumented function with the location of the first instrumented function.

20 38. A computer-readable medium having stored thereon a first module comprising a first data structure associating the identity of a first instrumented function with the location of the first instrumented function.

39. The computer-readable medium having stored thereon a first module as in claim 38,
25 wherein the first data structure further comprises a table.

38

FUNCTION INJECTOR

ABSTRACT OF THE DISCLOSURE

An original function or method in a machine-readable software component, such as
5 function in an executable file, is instrumented regardless of whether the function is embedded
within the machine-readable software component or an imported function residing in another
DLL. When a call to an original function is instrumented, the entry point of the function and
the identity of the function are stored in the machine-readable software component. A
function lookup table is used for storing the identity and location of the original function.

10 Storing the information enables a user-supplied function, that is called in substitute for the
original function, to retrieve or lookup, the location of the original function, using the name of
the original function as a key, and then call the original function. As a result, the user-
supplied function acts as a wrapper of the original function and enables fault simulation code
to control the execution of the original function. STUB for imported function

15 Furthermore, a master lookup table that is created at initialization of an injector
runtime library, identifies the location of the function lookup table using the base address of
the instrumented executable file. This enables the function lookup table for each instrumented
executable file to be located, and then searched to identify the location of an instrumented
function with the instrumented executable file.

20

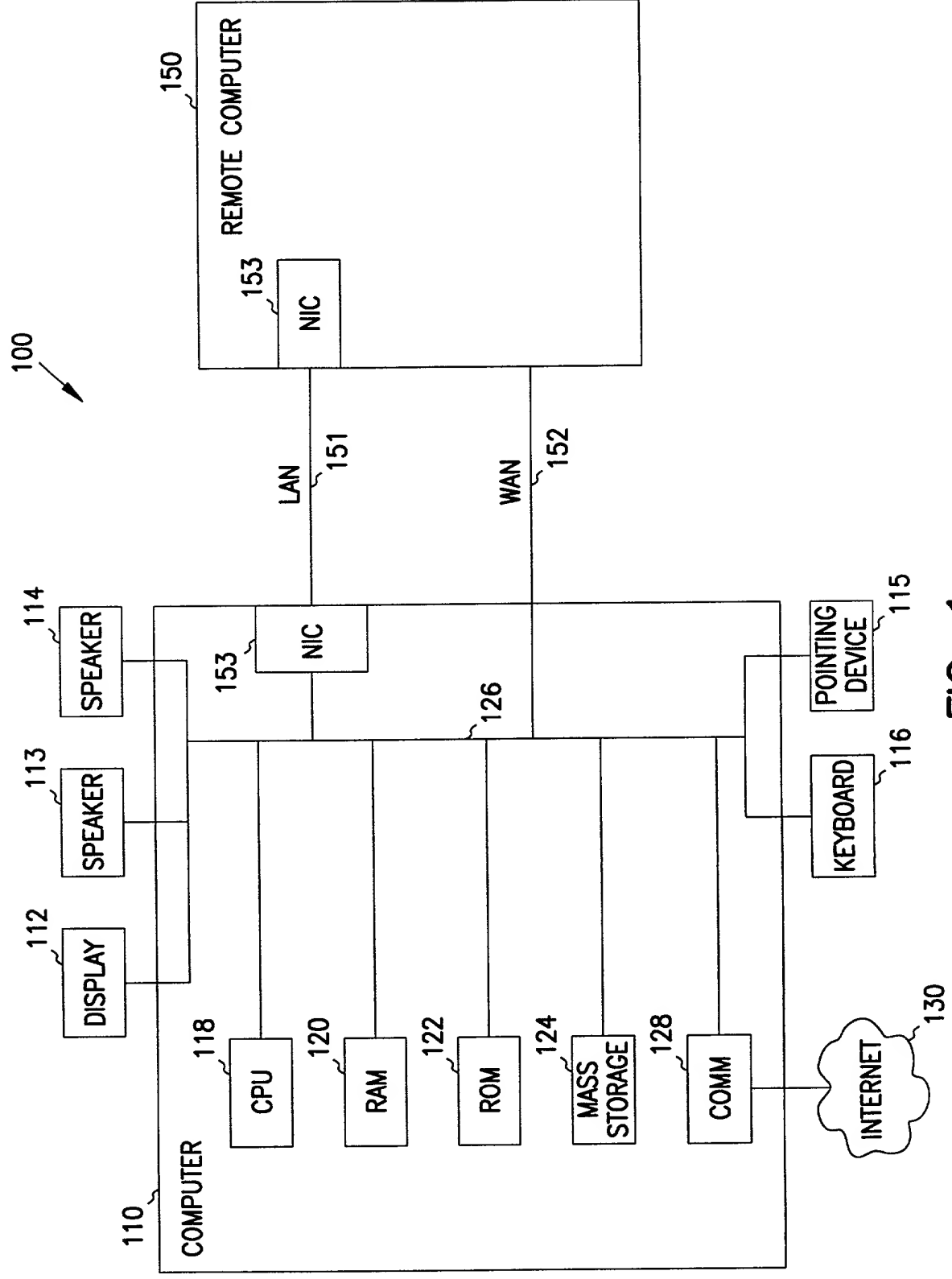


FIG. 1

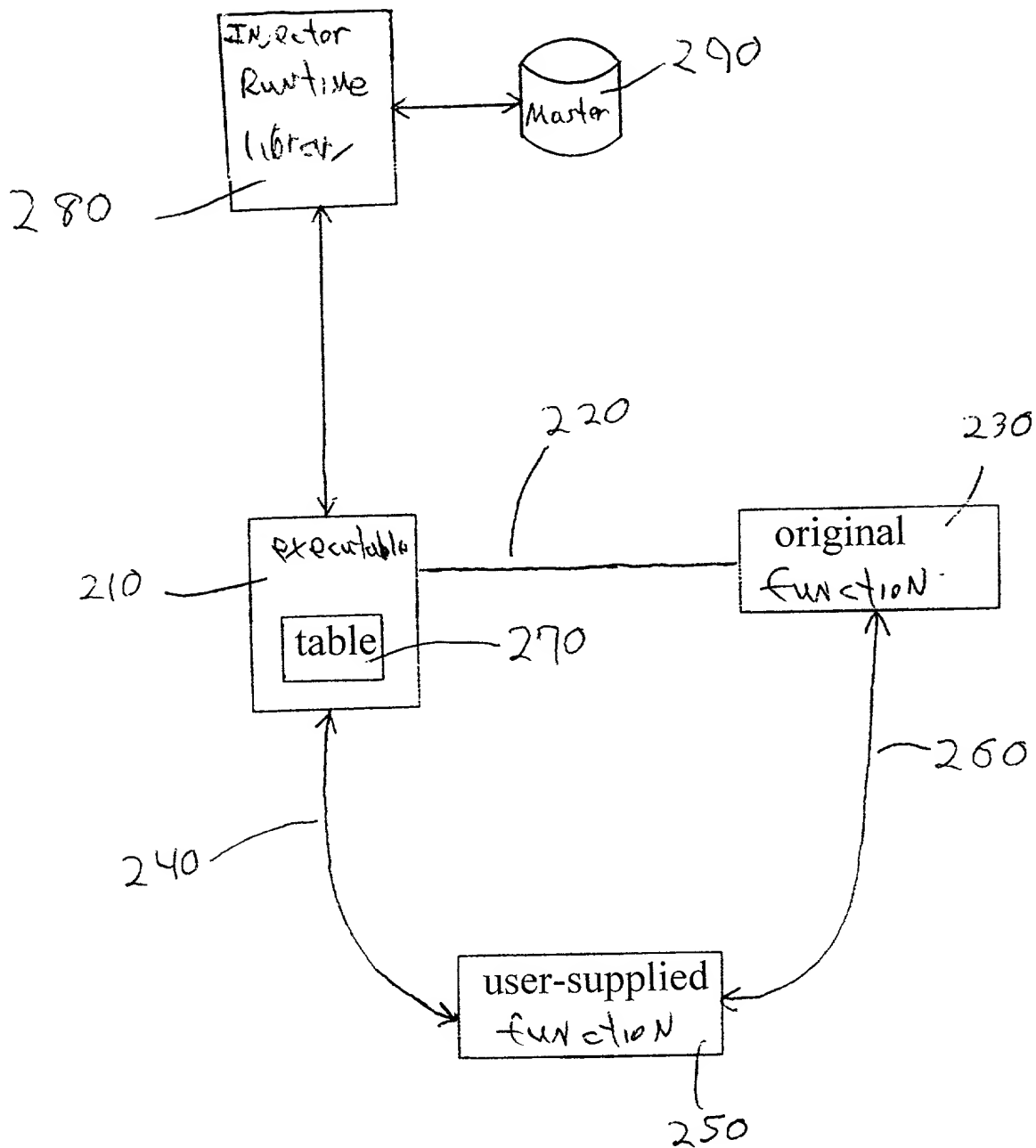


FIG. 2

200

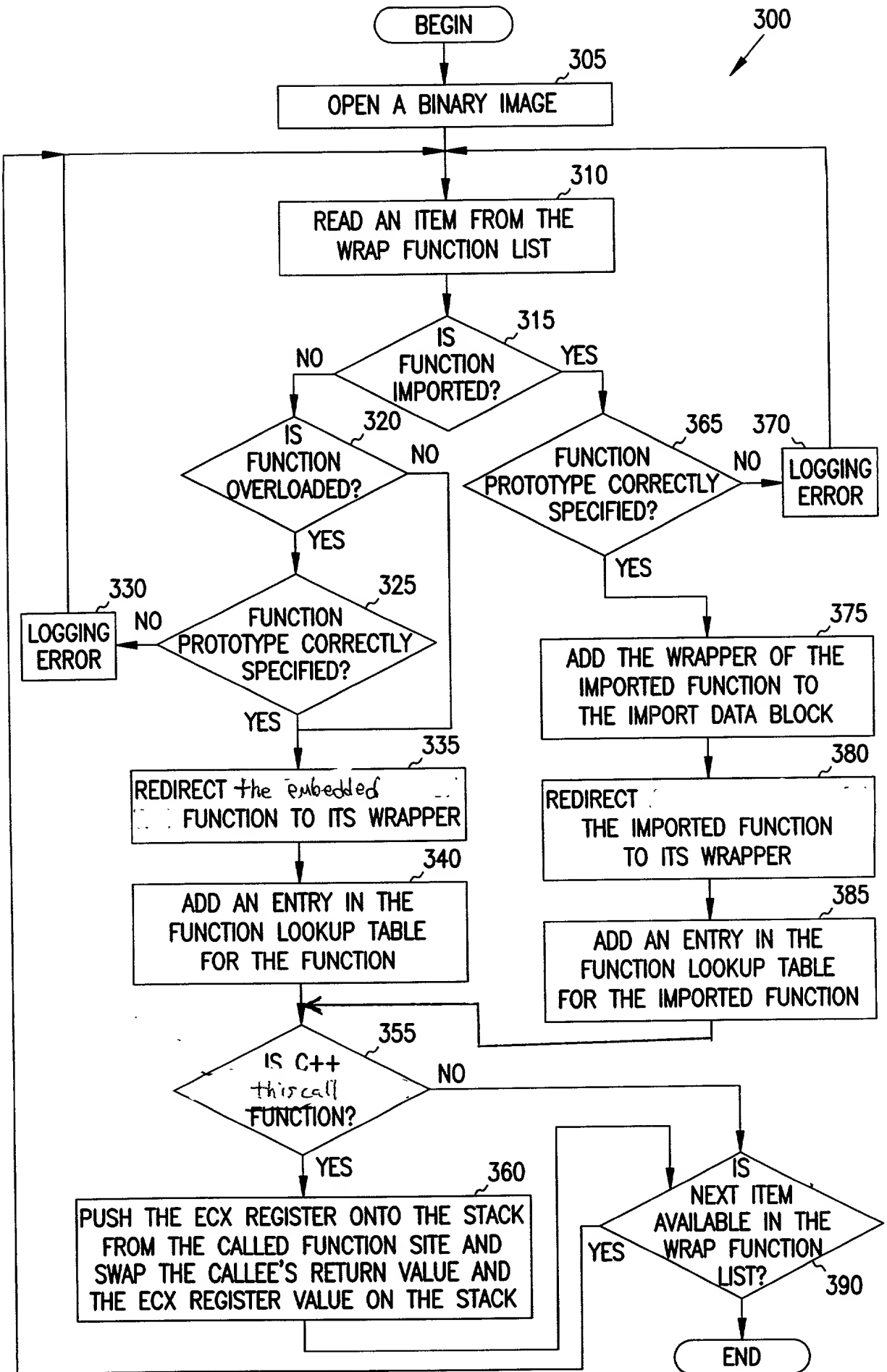


FIG. 3

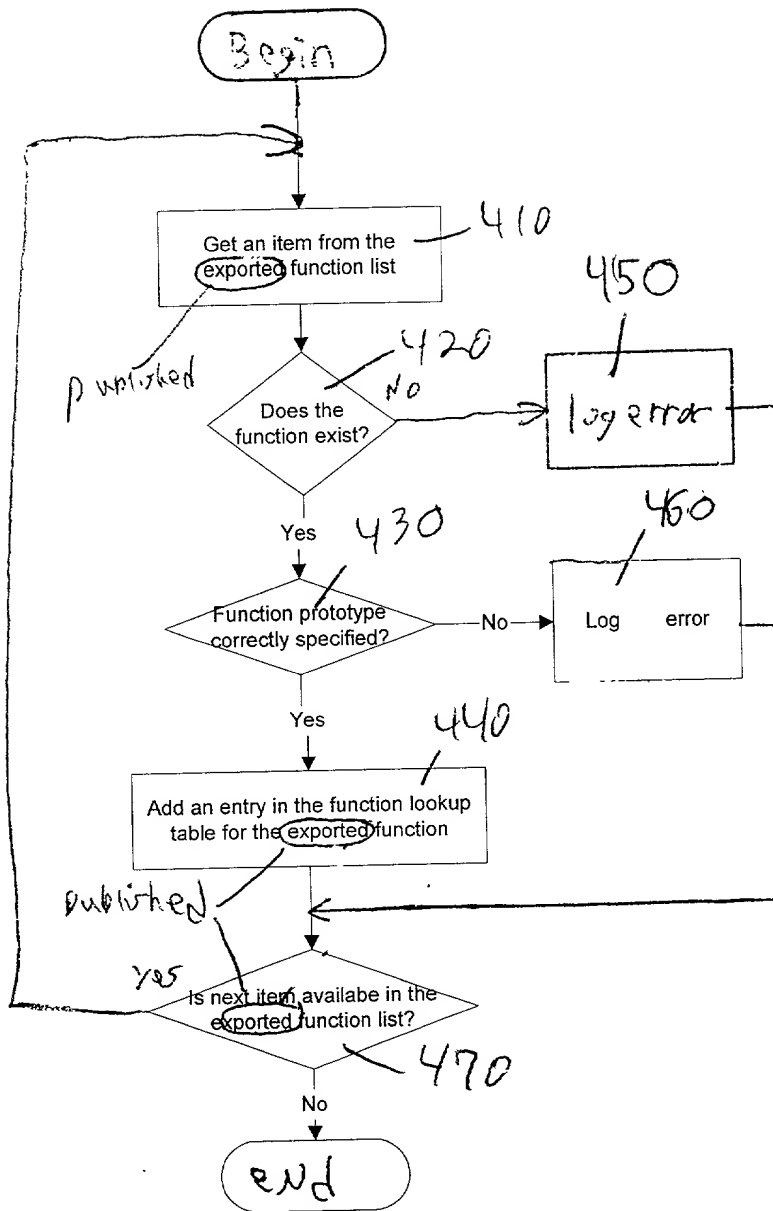


FIG. 4

400

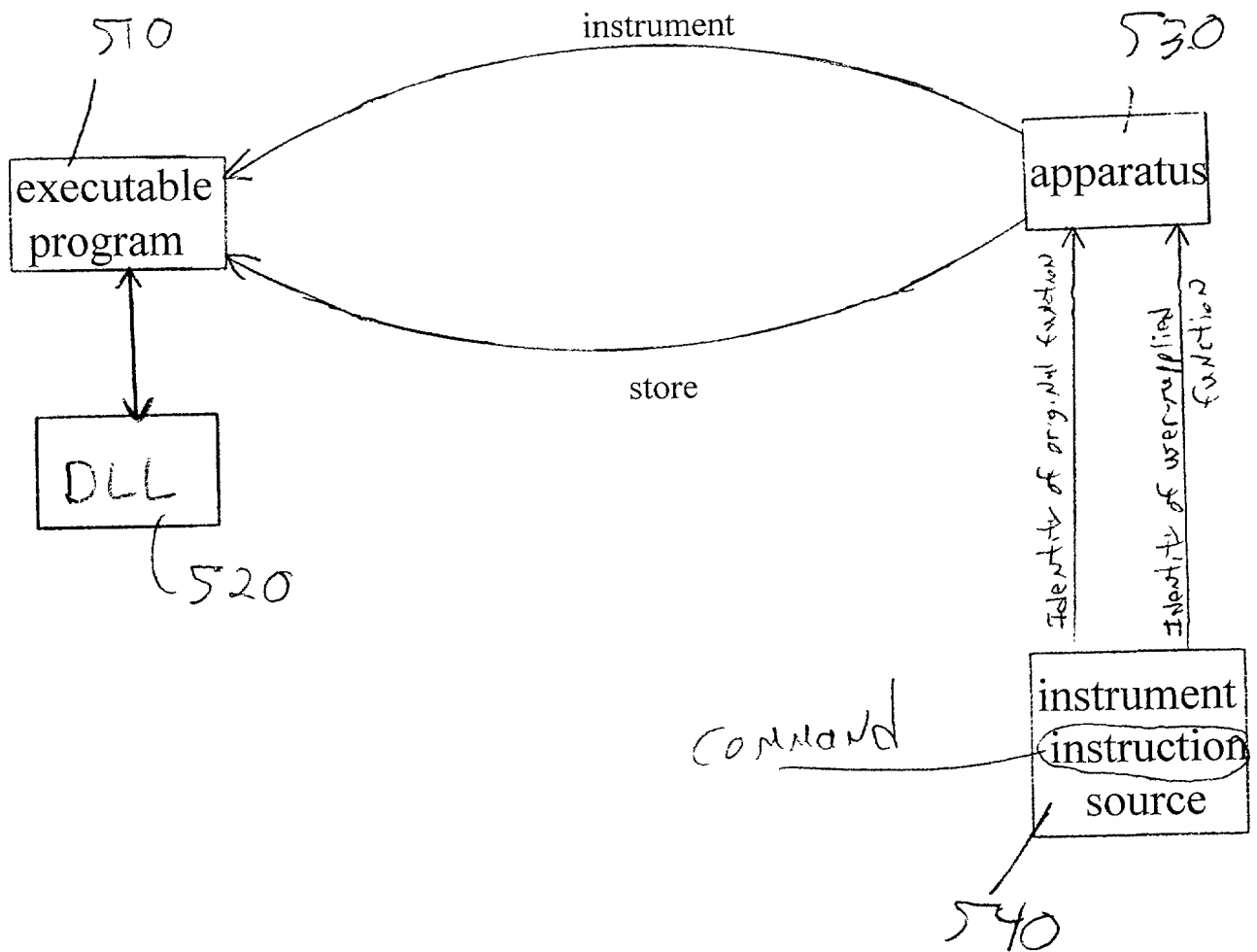


FIG. 5

500

A	QA
B	QB

FIG. 6

600

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

United States Patent Application

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: FUNCTION INJECTOR.

The specification of which is attached hereto.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 C.F.R. § 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. § 1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

No such claim for priority is being made at this time.

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

No such claim for priority is being made at this time.

I hereby claim the benefit under 35 U.S.C. § 120 or 365(c) of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

No such claim for priority is being made at this time.

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

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Brennan, Thomas F.	Reg. No. 35,075	Lacy, Rodney L.	Reg. No. 41,136	Prout, William F.	Reg. No. 33,995
Brooks, Edward J., III	Reg. No. 40,925	Leffert, Thomas W.	Reg. No. 40,697	Sako, Katie E.	Reg. No. 32,628
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Clark, Barbara J.	Reg. No. 38,107	Litman, Mark A.	Reg. No. 26,390	Schwegman, Micheal L.	Reg. No. 25,816
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Dahl, John M.	Reg. No. 44,639	Mack, Lisa K.	Reg. No. 42,825	Smith, Michael G.	Reg. No. 45,368
Drake, Eduardo E.	Reg. No. 40,594	Maki, Peter C.	Reg. No. 42,832	Speier, Gary J.	Reg. No. P-45,458
Eliseeva, Maria M.	Reg. No. 43,328	Malen, Peter L.	Reg. No. 44,894	Steffey, Charles E.	Reg. No. 25,179
Embretson, Janet E.	Reg. No. 39,665	Mates, Robert E.	Reg. No. 35,271	Terry, Kathleen R.	Reg. No. 31,884
Fogg, David N.	Reg. No. 35,138	McCrackin, Ann M.	Reg. No. 42,858	Tong, Viet V.	Reg. No. P-45,416
Fordenbacher, Paul J.	Reg. No. 42,546	Nama, Kash	Reg. No. 44,255	Viksins, Ann S.	Reg. No. 37,748
Forrest, Bradley A.	Reg. No. 30,837	Nelson, Albin J.	Reg. No. 28,650	Woessner, Warren D.	Reg. No. 30,440

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg, Woessner & Kluth, P.A. to the contrary.

Please direct all correspondence in this case to **Schwegman, Lundberg, Woessner & Kluth, P.A.** at the address indicated below:

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Signature: _____
Lynn Tang

Date: _____

☒ Additional inventors are being named on separately numbered sheets, attached hereto.

Serial No. not assigned

Filing Date: not assigned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Full Name of inventor:

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Citizenship:

Residence:

Post Office Address:

Signature: _____ Date: _____

Full Name of inventor:

Citizenship:

Residence:

Post Office Address:

Signature: _____ Date: _____

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.